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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,068	01/21/2005	Haydn N.G. Wadley	3053.138.US	7584
26474	7590	09/22/2008	EXAMINER	
NOVAK DRUCE DELUCA + QUIGG LLP 1300 EYE STREET NW SUITE 1000 WEST TOWER WASHINGTON, DC 20005				AUSTIN, AARON
ART UNIT		PAPER NUMBER		
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Mailed :

In re Application of  
Haydn N.G. Wadley  
Serial No. 10/522,068

: DECISION ON  
PETITION

Filed: January 21, 2005

For: Method For Manufacture Of Cellular Materials And Structures For  
Blast and Impact Mitigation And Resulting Structure

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 TO WITHDRAW THE  
RESTRICTION REQUIREMENT made January 10, 2007.

On January 10, 2007 the Examiner made a restriction requirement between claims 1-35 directed to a structure and claims 36-39 directed to a method of constructing the structure as set forth in claims 1-35. The examiner asserts that the inventions listed as Groups I (claims 1-35) and II (claims 36-39) do not relate to a single general inventive concept under PCT Rule 13.1 because under PCT Rule 13.2, they lack the same or corresponding special technical feature. On May 9, 2007, applicant elected Group I, claims 1-35 with traverse

Applicant argues that fewer than 37 CFR 1.475(b), a national stage application containing claims to different categories of invention will be considered to have a unity of invention if the claims are drawn only to a product and a process specially adapted to the manufacture of said product. Applicant asserts that claims 1-35 and claims 36-39 are related as a product and a process for manufacturing the product respectively.

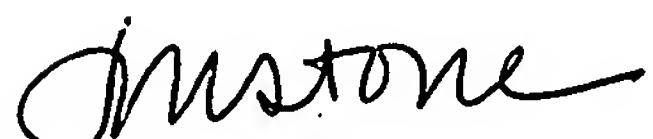
## DECISION

The instant application has been filed under 35 U.S.C. 371 as a national phase application and as such is subject to the unity requirements set out in PCT Rules 13.1 – 13.4 and 37 CFR 1.475, as well as the PCT Administrative Instructions, Annex B. The PCT Administrative Instructions, Annex B, Part 1 at (b) state that “the special technical features” common to all groupings of inventions shall be defined, as in PCT Rule 13.2, to mean,

“those technical features which each of the claimed inventions, **considered as a whole**, makes over the prior art.” (Emphasis added)

In the instant case, the description and the claims set forth the special technical feature of a structure and method of constructing a structure (see claims 1 and 36). However, the special technical feature(s) of an array of cellular housings and at least one cellular core disposed in at least a substantial number of the cellular housings has been shown, at pages 4-7 of the office action mailed August 8, 2007, to not make (be) a contribution over the prior art of Geyer (US Patent No. 4,453,367), Colvin (US Patent No. 6,418,832). Therefore, the examiner's finding that there is a lack of unity of invention between the groups as set forth in the restriction requirement was correct. The reason for such being that the groups constitute additional inventions not sharing a "special technical relationship" within the meaning of PCT Rule 13.2 since the identified "special technical feature" does not make a contribution over the prior art.

Accordingly, the petition is **DENIED**.



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